



## Administrative Assistant to the Selectmen

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To: Selectmen  
From: Stu  
Re: Proposed Gravel Ordinance Amendment  
Date: July 16, 2015

As you have been told by the Planning Board, they will not entertain any proposal to relax the new setbacks in the current gravel ordinance. The proposed document (now at Draft 9) does not contain any setback relaxation provision. Therefore, you might wish to present to voters, a separate amendment to the Gravel Ordinance regarding setbacks.

Here is what the draft 9 and current ordinance read:

### **Draft 9**

- A. Set-backs – The purpose of set-backs is to lessen adverse impacts, such as noise, erosion, despoiling of views, and deterioration of water quality on neighboring properties and residents.
  - 1. A buffer strip of not less than 100 feet in width shall be maintained between the boundary of the Permitted Area and the boundary of the Parcel on which the permitted area is located.
    - a. However, the buffer strip between Permitted Areas on abutting Parcels may be eliminated with the written permission of both owners, provided the elimination of the buffer strip does not increase the runoff from either excavation across the property boundary.
    - b. Excavation in the 100-foot buffer strip may take place not less than fifty (50) feet from the Parcel boundary when conditions stated in 8.A.2., 8.A.3., and 8.A.4., are met and if the following conditions are met.
      - 1) The Parcel or part thereof on which the permitted area is located had been granted a Site Plan Review Permit for gravel operations;
      - 2) The owner of the abutting property grants written permission for the excavation to occur. Such written agreement shall be recorded at the Hancock County Registry of Deeds, making reference to the title deed of the owner of each such abutting Parcel;
      - 3) Excavation within the buffer strip may not exceed the 2.5-1.0 slope as required and described in Section 8.D.1.a (Restoration)
      - 4) The area within the buffer strip anticipated to be excavated during the life of the permit must be specified in the application and will be considered as part of the permit; and
      - 5) Reclamation of the area designated in (4) above must be completed prior to the expiration of the permit.

2. A buffer strip shall be maintained in accordance with 38 MRSA §490-D (3) (A & B) between
  - a. the boundary of the Permitted Area and an existing private drinking water supply. (A. A 200-foot separation must be maintained between any excavation and any private drinking water supply that is a point-driven or dug well and was in existence prior to that excavation. B. A 100-foot separation must be maintained between any excavation and any private drinking water supply that is drilled into saturated bedrock and was in existence prior to that excavation.)
  - b. A buffer strip of at least 1,000 feet shall be maintained between the boundary of the Permitted Area and any public water source.
3. A buffer strip of not less than 100 feet in width shall be maintained between the boundary of the Permitted Area and the nearest edge of any public road, public right-of-way, or the nearest edge of any private road serving as the principal road in an approved subdivision.
4. A buffer strip of not less than 250 feet in width shall be maintained between the boundary of the Permitted Area and the normal high-water line of any great pond, river or saltwater body, and the upland edge of a coastal or freshwater wetland; a buffer strip of not less than 75 feet in width shall be maintained between the boundary of the permitted area and the normal high-water line of a stream. (See Shoreland Zoning Ordinance for definitions and other restrictions which may apply.)
5. The Planning Board shall have the authority to require wider buffer areas if it determines that the above set-back distances are insufficient to achieve the purposes of protecting private and public water supplies, screening gravel operations from public view, and protecting water bodies, tributary streams or wetlands as noted in 8.A.2, 8.A.3., and 8.A.4 above.

### ***Current Ordinance***

#### **A. Set-backs**

The purpose of set-backs is to lessen adverse impacts, such as noise, erosion, despoiling of views, and deterioration of water quality on neighboring properties and residents.

1. A buffer strip of at not less than 100 feet in width shall be maintained between the boundary of the Gravel Pit and the boundary of the Parcel on which the Pit is located.
  - a. However, the buffer strip between permitted Gravel Pits on abutting Parcels may be eliminated with the written permission of both owners, provided the elimination of the buffer strip does not increase the runoff from either excavation across the property boundary.
  - b. Excavation in the 100-foot buffer strip may take place not less than fifty (50) feet from the Parcel boundary when conditions stated in A.2., A.3., and A.4., are met and if the following conditions are met:
    - 1) the Parcel or part thereof on which the Gravel Pit is located had been granted a Site Plan Review Permit for a Gravel Pit;

- 2) the owner of the abutting property grants written permission for the excavation to occur. Such written agreement shall be recorded at the Hancock County Registry of Deeds, making reference to the title deed of the owner of each such abutting Parcel;
- 3) excavation within the buffer strip may not exceed the 2.5-1.0 slope as required and described in Section 8.D.1.a (Restoration);
- 4) the area within the buffer strip anticipated to be excavated during the life of the Permit must be specified in the application and will be considered as part of the Pit; and
- 5) reclamation of the area designated in (4) above must be completed prior to the expiration of the Permit.

Here is what the setback provision looked like prior to the 2013 ordinance change:

*A natural buffer strip of at least 50 feet wide must be maintained between any excavation and a property boundary. This distance may be reduced to not less than 10 feet with the written permission of the affected abutting property owner or owners, except that the distance may not be reduced to less than 25 feet from the boundary of a cemetery or burial ground. The buffer strip between borrow pits owned by abutting owners may be eliminated with the abutter's written permission, provided elimination does not increase the runoff from either excavation across the property boundary. All property boundaries must be identified in the field by markings such as metal posts, stakes, flagging or blazed trees. A variance from this provision cannot be granted.*

*No gravel pit operation shall result in increased erosion or runoff that will adversely affect any adjoining properties.*

*No gravel pit shall be worked at a level less than five (5) feet above the average seasonally high water tables.*

Here is a possible amendment:

To see if the Town will vote to Amend the current gravel ordinance, Section 8-A Setbacks as follows:

A. Set-backs

The purpose of set-backs is to lessen adverse impacts, such as noise, erosion, despoiling of views, and deterioration of water quality on neighboring properties and residents.

1. A buffer strip of not less than 100 feet in width shall be maintained between the boundary of the Permitted Area and the boundary of the parcel on which the permitted area is located, **except as provided below.**
  - a. ~~However,~~ The buffer strip between Permitted Areas on abutting parcels may be eliminated with the written permission of both owners, provided the elimination of the buffer strip does not increase the runoff from either excavation across the property boundary.

b. *The buffer strip on a Parcel (or portion thereof) which had been granted (or applied for and subsequently granted), prior to March 13, 2013 a Site Plan Review Permit for gravel extraction, may be reduced to not less than 50-feet provided that:*

- I. *No equipment that produces an appreciable amount of noise (such as crushers and power screens) may be operated closer than 100-feet from the Parcel Boundary, and*
- II. *Excavation of the first 50-feet of gravel from the inner boundary of the buffer may not exceed the 2.5:1.0 slope as required and described in Section 8.D.1.a. (Restoration), and*
- III. *The area excavated as described in section II above is restored within six months after completion of excavation.*

c. *The buffer strip on a Parcel (or portion thereof) which had been granted (or applied for and subsequently granted), prior to March 13, 2013, a Site Plan Review Permit for gravel extraction, may be reduced to not less than 10-feet provided that:*

- I. *The owner of the abutting property grants written permission for the setback to be reduced to 10-feet and said written agreement is recorded at the Hancock County Registry of Deeds.*
- II. *No equipment that produces an appreciable amount of noise (such as crushers and power screens) may be operated closer than 100-feet from the Parcel Boundary, and;*
- III. *Excavation of the first 40-feet from the inner boundary of the buffer may not exceed a 3.5:1.0 slope and the slope of the next 50-feet may not exceed the 2.5:1.0 slope as required and described in Section 8.D.1.a.(Restoration), and;*
- IV. *The area excavated as described in section III above is restored within six months after completion of excavation.*

d. ~~Excavation in the 100-foot buffer strip may take place not less than fifty (50) feet from the parcel boundary when conditions stated in 8.A.2., 8.A.3., and 8.A.4., are met and if the following conditions are met.~~

- ~~1. The parcel or part thereof on which the permitted area is located had been granted a Site Plan Review Permit for gravel operations;~~
- ~~2. The owner of the abutting property grants written permission for the excavation to occur. Such written agreement shall be recorded at the Hancock County~~

~~Registry of Deeds, making reference to the title deed of the owner of each such abutting parcel;~~

- ~~3. Excavation within the buffer strip may not exceed the 2.5-1.0 slope as required and described in Section 8.D.1.a (Restoration)~~
- ~~4. The area within the buffer strip anticipated to be excavated during the life of the permit must be specified in the application and will be considered as part of the permit; and~~
- ~~5. Reclamation of the area designated in (4) above must be completed prior to the expiration of the permit.~~

\*Please note that Planning Board Chair John Holt provided great assistance in the wording of this amendment, though he does not endorse the proposed amendment.

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